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8 NOT FOR CITATION  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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12 JAMES BOYD,

13 Petitioner,

14 vs.

15 JAMES LARGE,

16 Respondent.  
17

No. C 06-3317 JF (PR)

ORDER OF DISMISSAL

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19 Petitioner, a prisoner currently incarcerated at Red Onion State Prison in  
20 Pound, Virginia, filed a pro se petition for writ of habeas corpus pursuant to 28 U.S.C.  
21 § 2254. On June 19, 2006, the Court dismissed the instant petition with leave to amend  
22 because Petitioner failed to allege the underlying conviction or sentence that he was  
23 challenging and whether he exhausted his claims prior to filing the petition. The Court  
24 directed Petitioner to file an amended petition within thirty days and to include the  
25 following: the underlying conviction that he is challenging, the location of the conviction,  
26 and whether he has exhausted his claims in state court prior to filing the petition.

27 On June 26, 2006, Petitioner filed an amended petition. However, the amended  
28 petition suffers from the same deficiencies: petitioner fails to allege: (1) an underlying

1 conviction or sentence, (2) any substantive claims challenging the legality or validity of  
2 his sentence, and (3) whether he has exhausted his claims prior to filing the petition.  
3 Accordingly, the instant petition is DISMISSED without prejudice for failure to allege a  
4 cognizable claim under 28 U.S.C. § 2254.<sup>1</sup> Petitioner's declaration in support of his  
5 request to proceed in forma pauperis (docket no. 5) is DENIED as moot. No filing fee is  
6 due. The Clerk shall terminate any pending motions and close the file.

7 IT IS SO ORDERED.

8 Dated: 12/4/06

  
JEREMY FOGEL  
United States District Judge

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26 <sup>1</sup> The Court notes that Petitioner is in a Virginia state prison and that the petition does not  
27 specify where his conviction occurred. Habeas petitions challenging a conviction are preferably  
28 heard in the district of conviction. See Habeas L.R. 2254-3(a); Laue v. Nelson, 279 F. Supp.  
265, 266 (N.D. Cal. 1968); cf. Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989) (district of  
confinement best forum to review execution of sentence).

1 A copy of this order was mailed to the following:

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3 James Boyd  
226451  
4 Red Onion State Prison  
P.O. Box 1900  
5 Pound, VA 24279  
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